



City of Raleigh, North Carolina
Department of City Planning

PROPOSAL TO ADDRESS RESIDENTIAL INFILL REDEVELOPMENT

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Revised Version: December 5, 2007

Revisions to this document were added to include references to Section 10-2054. Footnotes 3 through 6 describe changes made to the original report dated November 29, 2007.

Overview of the Issues

Some residents have expressed concern that teardowns and new residential infill construction is changing the character of older established neighborhoods. In some cases, new homes are being replaced with larger homes. Some have expressed concern that mature trees are being removed, light and air is blocked and property values are negatively affected. Since 2002, about 600 homes have been demolished and replaced with new homes. These larger scale dwellings may be greater in mass as well as height and may be created in two ways: (1) demolition and re-construction of new dwellings; (2) additions and alterations to existing dwellings which result in larger and/or taller structures than the surrounding homes. Most of this activity has occurred inside the beltline.

Other residents strongly support their rights to develop property and have concerns about standards that may impact their property values or their ability to rebuild or expand. These residents claim that residential infill development increases property values. Some residents claim that larger homes are bringing vitality, youth and families back to older neighborhoods. These residents also want the freedom to rebuild or expand their home to suit their personal and family lifestyle needs.

Some neighborhood residents inside the beltline such as Five Points or Fallon Park support stronger infill standards. Other neighborhood residents such as Country Club Hills welcome larger residential infill redevelopment. Therefore, any new proposal should balance the need to conserve neighborhood character and protect property rights.

Options for Consideration

Since October 2007, two interim measures have been discussed (Options 1 and 2). These measures were intended to put standards in place until the Department of City Planning can complete an infill study by spring 2008. A third option is now being introduced that could be a permanent. This third option could be implemented as soon as a new text change is drafted.

- **Option 1** (a.k.a. TC-8-07) proposes to reduce height limits and increase setbacks in low and medium density residential districts citywide. This text change is pending City Council action. The City Planning Commission unanimously recommended denial of this text change on November 27, 2007. Option 1 is not discussed further in this report.
- **Option 2** proposes to adapt the existing infill subdivision standards to all new residential infill construction citywide. Administrative approval of new infill construction would be limited a 25% to 30% increase in square footage. Homes larger than this allowance would require Planning Commission approval. Variations of this proposal have been put forth, including one version from a member of the Planning Commission.
- **Option 3** seeks to amend the existing Neighborhood Conservation Overlay District regulations to address the residential infill issue in a manner that is focused on the specific neighborhoods and requires input from the majority of affected property owners before final action is taken. Option 3 is a proposal to update Raleigh's innovative Neighborhood Conversation Overlay District provisions to better serve today's market and lifestyle demands while conserving the

City's vital neighborhood assets. This proposal also seeks to fast track the creation of new Neighborhood Conservation Overlay Districts by shortening the entire process from **14 to 18 months** to **4 to 6 months** depending on the size and complexity of the area. This proposal could be a permanent solution and could be implemented as soon as a new text change is drafted and adopted by the City Council following a public hearing.

Option 2: Create a Residential Infill Standard

Overview of Option 2

This option would create a new citywide residential infill standard for new construction and expansions could be governed in similar manner to how the City Code currently treats two kinds of proposals generally referred to as “infill subdivisions” or “infill site plans”.

Background on existing Code

Currently the Code defines “infill subdivisions” or “infill site plans” as follows:

(1) Residential subdivisions or recombinations of five acres or less in size and which result in the creation of at least one vacant lot are defined as *infill projects* (section 10-3003) by virtue of not just their location, but also whether the proposed lot sizes and dimensions (measured at street frontage) are in character with the surrounding peripheral lots. Specifically a threshold measurement of 80% compared to the median measurement of adjacent lot sizes and road frontage defines the point at which a project is defined as *infill*. If a proposal would create a lot with a size or street frontage 80% or less than the median measurement of the adjacent parcels then as an *infill project* it would require approval by the Planning Commission. Otherwise a proposal may be approved by staff per code standards.

(2) “Infill” site plans are those for multifamily, townhouse, or group housing developments which are located within a residential zoning district, which are less than five acres in area, and at least 66% of the periphery of the development abuts existing residential building lots containing a single family detached dwelling or a structure originally constructed as such [section 10-2132.2(c)(1)h].

“Infill subdivisions” or “infill site plans” require Planning Commission approval based on location criteria, the nature of adjacent development, and whether the proposal fits within the character of adjacent residential development. The Planning Commission evaluates these plans based on a number of criteria in addition to how they fit into the context of surrounding development. For site plans the eight standards for site plan approval [section 10-2132(d)] generally related to protection of public health, safety, welfare and adherence to adopted policies and guidelines are utilized. The criteria for evaluating site plans are much broader than those for evaluating subdivisions and recombinations. For subdivisions and recombinations findings must be made that projects contain adequate measures to protect other properties from adverse effects such as storm water, traffic, and interference with air, light and privacy of surrounding residential properties.

Proposed Action (Option 2)

This proposal would be applied based on the size increase of proposed construction and the nature of adjacent development. This would set thresholds for allowable size increases subject to staff approval alone.

It is suggested to allow by staff approval up to a 25% expansion¹ in size above the current size of existing structure (or the one being replaced). Allow by staff approval up to 10% increase in height above that of the existing structure or the one being replaced. A 30% expansion in size was also suggested. The only issue with the 30% number is that it may create two different standards in the code as it relates to nonconforming uses (see footnote below). The table below illustrates the maximum increase in square footage that could be built or added on to an existing home. The table below assumes all new construction or expansion would be built pursuant to existing height and setback regulations.

Table 1: Maximum Sq. Footage Allowed Matter of Right (1000 to 2500 square feet).

Existing Square Footage (sq. ft.)	25% Increase (sq. ft.). Maximum allowed w/o PC approval	Maximum Square Footage for new house or expansion w/o PC approval (sq. ft.)
1000	250	1250
1100	275	1375
1200	300	1500
1300	325	1625
1400	350	1750
1500	375	1875
1600	400	2000
1700	425	2125
1800	450	2250
1900	475	2375
2000	500	2500
2100	525	2625
2200	550	2750
2300	575	2875
2400	600	3000
2500	625	3125

¹ 25% increase in square footage is consistent with [Section 2146.2(a)(3)] Improvements and Changes to Zoning Nonconformities that do not require a special use permit from the Board of Adjustment.

Define “infill reconstruction” as follows:

New single family dwelling construction in residential zoning districts which meet all of the following criteria:

- Proposals are on lots where at least 66% of the periphery of the development abuts existing residential building lots containing a single family detached dwelling or a structure originally constructed as such. (utilizing definition of peripheral development as currently defined for *infill lots or infill projects* in Code Section 10-3003).
- Proposed new dwelling construction is on a lot where a demolition permit has been issued within the past 12 months.
- Proposed new dwelling construction exceeds 25% increase above the size in heated square feet of the previous structure and proposed construction is greater than 20% above the median building size (measured in heated square feet) of the surrounding peripheral structures, or
- The proposed height of new dwelling construction (as measured per Code Section 10-2076) exceeds a 10% increase above the height of the previous structure, and the proposed height of new dwelling construction is greater than 20% above the median height of the surrounding peripheral structures.

Define “infill expansion” as follows:

Additions or alterations to single family dwellings in residential zoning districts which meet all of the following criteria:

- Proposals are on lots where at least 66% of the periphery of the development abuts existing residential building lots containing a single family detached dwelling or a structure originally constructed as such. (utilizing definition of peripheral development as currently defined for *infill lots or infill projects* in Code Section 10-3003).
- Additions or alterations exceed 25% increase above the size in heated square feet of the existing structure and proposed construction would result in a total structure size greater than 20% above the median building size (measured in heated square feet) of the surrounding peripheral structures, or
- The additions or alterations exceed a 10% increase in the height of the existing structure (as measured per Code Section 10-2076), and the resultant height after construction is greater than 20% above the median height of the surrounding peripheral structures.

If a project meets the definition of “infill reconstruction” or “infill expansion” then it shall require Planning Commission approval in accordance with the eight standards for site plan approval [section 10-2132(d)].

Implications of this option:

- Increase in the review time for all permit requests for new single family construction and additions/alterations.
- Increase in length of permit issuance for affected “infill” proposals- preliminary review may add 8-10 weeks.

- Approximately 4,000 permit requests for single family construction and additions/alterations would require increased staff evaluation in the Inspections Department.
- Approximately 100 new home building requests may require preliminary approval.
- Approximately 50 additions and alterations may require preliminary approval
- Approximately 150 total additional cases for Planning Commission review; almost doubling the Planning Department's and Planning Commission's preliminary plan case load.

There is no way to accurately predict the actual number of parcels or permit requests that could be affected annually by this change; however, between 100-300 new building requests (reconstruction) could be affected annually given that during the five year period 2002-2007 there was an average of 240 single family and duplex dwellings demolished per year (1,198 total). Currently data isn't available regarding the size of additions and alterations to homes, but in 2006 the Inspections Department issued 2,543 permits for additions and alterations to single family dwellings. If just 2% met the criteria for preliminary approval then over 50 proposals may be affected.

The proposal could add over 150 cases to the Planning Commission's annual review. In comparison the Planning Commission reviewed a total of 70 subdivisions and site plans at public hearing in 2006.

Administration of these changes would substantively increase demands on staff in both the Inspections and Planning Departments.

In 2006 there were 2,384 building permits issued for new single family and duplex dwellings along with 2,543 permits for additions and alterations to single family dwellings. The proposal would require Inspections staff reviewing building permit requests to both collect additional information and to do additional research to determine the applicable approval process. Each permit application for a new single family home would first require comparison to demolition permit records. Secondly all proposals would require evaluation to determine if they meet the standards for consideration as potential "infill" development. Lastly each potential "infill" project will need evaluation to determine the appropriate approval process. All permit requests for additions and alterations would require comparison with the proposed standards.

In 2006 the Planning Department reviewed 95 subdivisions and infill recombinations along with 75 site plans and master plans which were brought to public hearing (170 total projects). With the potential for 150 additional projects requiring preliminary approval, this proposal could almost double the Planning staff's case load.

Issues for further research and discussion

1. The Inspections Department has no means to determine height of the adjacent homes accurately without physically measuring each one. The Inspections Department would need permission to climb and measure the roof. The Inspections Department will need additional staff to verify the heights of houses.
2. The Inspections Department is trying to improve customer service and reduce the permit turnaround time. This new regulation will slow down the permit process significantly.

3. The Inspections Department is planning to roll out an online permitting process for new homes and additions. The new regulation would have a significant impact on this new service.
4. Accurate on current size of structures is not available. IMAPS data are limited to heated space, not gross building space. Garages, screened-in porches, etc. may not be included in public information. IMAPS data may be inaccurate, not accounting for building expansions where no permits were issued.
5. How would the size of a demolished structure be verified if a lot has been vacant for an extended period of time?
6. How can the height of existing residential structures not subject to permit review be measured for comparison? The exact height in feet is not readily available. Just number of building stories.
7. A 25% increase in structure size threshold for staff approval is suggested since that is the maximum increase allowed for nonconforming structures before BOA approval required. For the purposes of identifying significant infill projects, this standard may be too low or too high.
8. As written above new dwelling construction would be subject to these rules if a demolition permit was issued in the previous 12 months. Is this a reasonable time period? What is the appropriate time period for requiring review based on the previous date of a demolition permit?
9. It is unknown to what extent this proposal, particularly in regard to expansions and alterations, would affect dwellings city-wide, not just in older neighborhoods.
10. Currently owners submit detailed building plans for construction permit review. Builders and owners may be caught “off guard” if a text change is quickly implemented without public education, thus expending considerable money on plans subject to potentially significant modification (or denial).
11. What is the best date for application of this code change so as to have minimal economic impact on builders and property owners who have already invested in these kinds of projects?
12. Will this proposal affect parcels previously occupied with a dwelling and approved as “infill subdivisions”?
13. Potential need to revise permitting/development review software to accurately track demolitions. Demolition permits are issued to the address of the structure’s lot. If a dwelling is demolished and then afterward a lot is recombined or subdivided it may be difficult to track a demolition permit given current software and business procedures in use. If property lines are reconfigured then addresses often change or new addresses are assigned to new lots in the case of subdivisions.

Option 3: Amend Neighborhood Conservation Overlay District

Overview of Option 3

This option would amend the existing Neighborhood Conservation Overlay District regulations to address the residential infill issue in a manner that is focused on the specific neighborhoods and requires input from the majority of the affected property owners before final action is taken. This proposal also seeks to fast track amending existing or creating new Neighborhood Conservation Overlay Districts.

Background on Neighborhood Conservation Overlay District (NCOD)

Section 10-2011(e) of the Code states *“Neighborhood Conservation Overlay Districts is intended to preserve and enhance the general quality and appearance of older neighborhoods, for it is that built environmental characteristics² are a major part of the identity and positive image of the City. Through the regulation of street design, greenways, rights-of-way, and built environmental characteristics, the Overlay District stabilizes and improves property values and promotes local design qualities. By respecting the context of existing built environmental characteristics, the Neighborhood Conservation Overlay District reduces conflicts between new construction and existing development, and it encourages compatible infill development.”*

The City of Raleigh’s neighborhood conservation overlay has been widely recognized as an innovative approach to neighborhood preservation. Other jurisdictions in North Carolina have followed Raleigh’s lead and created similar districts in their communities. Option 3 is a proposal to update an innovative solution to better serve today’s market and lifestyle demands while conserving the City’s vital neighborhood assets.

Existing NCOD Requirements

Sections 10-2054 (f)(1)³ and 10-2165 (3) outline the requirements for a Neighborhood Conservation Overlay District.

I. Guidelines

- *The City or another entity can file a rezoning application for NCOD. The following rules apply.*
 - (a) The area must contain 15 acres or an existing NCOD is being extended. The City Council may authorize an area smaller than 15 acres.
 - (b) The rezoning petition is signed by a majority of the property owners within the area sought to be rezoned.
 - (c) The area must be at least 25 years old.
 - (d) The area must be at least 75 percent developed.
 - (e) The area must possess unifying distinctive elements of either exterior features or built environmental characteristics that create an identifiable setting, character and association.⁴

² Built environmental characteristics shall include: lot frontage and size, building entrances, building height, building placement on the lot, including setbacks from the streets and property lines, and distances and between buildings and vehicular surface area placement on the lot (Section 10-2002).

³ Reference to Section 10-2054 was added to this report on December 5, 2007.

I. Prepare a Neighborhood Plan

- City Council directs the Planning Department to prepare a plan. The Planning Department must prepare the plan within 180 days. As per Section 10-2054(f)(2), the Neighborhood Plan shall include at least these elements.⁵
 - (a) Neighborhood history and evolution
 - (b) Land use inventory
 - (c) Description of housing; existing, new development and maintenance
 - (d) Inventory of built environmental characteristics
 - (e) Lot size and configuration
 - (f) Open space and recreation
 - (g) Commercial development revitalization
 - (h) Circulation/transportation
 - (i) Capital improvement needs

Proposed Action (Option 3)

This proposal would replace the existing “neighborhood plan” requirement in the code with “standards” as set forth in Section 10-2011(e). The existing standards call for *the regulation of street design, greenways, rights-of-way, and built environmental characteristics*. This proposed action would require a text change to amend Sections 10-2054(f) and 10-2165(3)(b) to change the rules for establishing an NCOD.

Under existing rules, the current NCOD process could take between 14 to 16 months. A neighborhood plan could take up to 6 months (180 days) to complete. Following completion, a public hearing is held to incorporate the neighborhood plan into the Comprehensive Plan. This would generally constitute an additional 3 to 4 months. At this time, the neighborhood is at will to file a rezoning petition and gather signatures from property owners for an NCOD (4 to 6 months).

The entire process under Option 3 would take between **4 to 6 months** depending on the size and complexity of the area. A neighborhood plan could still be created as a Comprehensive Plan element. Under this proposal, the actual NCOD standards would be codified and inserted into the Zoning Ordinance similar to the Airport Overlay District (see 10-2050) or Downtown Overlay District (see 10-2051). The NCOD would also include a map depicting the district boundary. This action would require a zoning map amendment (a.k.a. rezoning). This approach would allow the text change, comprehensive plan amendment (neighborhood plan is optional) and rezoning petition to run concurrently.

It should be noted that all lots and structures existing at the time that the Neighborhood Conservation Overlay District is first applied to the property shall not be deemed a zoning nonconformity solely because of this Overlay District. For example, replacement of existing structures with like structures that otherwise conform to the requirements of the underlying district are allowed. All additions, changes, expansions, and alterations to such existing structures must comply with the regulations of the Neighborhood Conservation Overlay District unless the Board of Adjustment in accordance with §10-

⁴ Reference to Section 10-2054(e) was added to this report on December 5, 2007.

⁵ The list of elements was added on December 5, 2007 as stated in Section 10-2054(f)(2).

2146.3(a)(7) approves the addition, change, expansion or alteration, as if the existing structure were made nonconforming by the Overlay District.⁶

Existing NCOD elements of neighborhood plans would be moved from the Comprehensive Plan to Section 10-2065 of the Zoning Ordinance. This would require a text change (to codify the standards), a zoning map amendment (to create the zoning overlay) a Comprehensive Plan amendment (to address the neighborhood plan).

The new NCOD process would entail the following actions:

- | | |
|--|--|
| ▪ Develop Neighborhood Plan (optional) | Comprehensive Plan Amendment |
| ▪ Creation of overlay district | Zoning Map Amendment (a.k.a. a rezoning) |
| ▪ Create NCOD standards | Text Change |

Based upon Section 10-2011 (e) of the Zoning Ordinance, the NCOD standards would include, but not limited to:

Right of way standards/Street Design

1. sidewalk widths
2. curb and gutter vs. ribbon paved streets

Built environmental characteristics (as defined in 10-2002)

3. lot frontage and size
4. building entrances
5. building height
6. building placement on the lot, including setbacks from the streets and property lines,
7. distances between buildings and vehicular surface area placement on the lot

⁶ This paragraph on nonconformities as stated in Section 10-2054(e)(5) was added to this document on December 5, 2007.

Characteristics of the Existing NCODs

There are sixteen Neighborhood Conservation Overlay Districts in Raleigh.

1. Brookhaven	9. New Bern-Edenton
2. Cameron Park	10. North Boylan
3. Five Points East	11. Oakwood Park
4. Foxcroft	12. Oberlin Village
5. Glen Forest	13. Roylene Acres
6. Laurel Hills	14. Runnymede Road
7. King Charles	15. South Park
8. Mordecai	16. Trailwood

All sixteen NCODs have neighborhood plans. Until this month, all NCODs were listed as part of the Comprehensive Plan under the Neighborhood Plans section. The City's website has been updated to denote which Neighborhood Plans have NCODs. The website has also been updated to list NCODs and Pedestrian Business Overlay Districts (PBOD) under the "Zoning Code" link.

Prior to this recent change, the Department of City Planning created a folder that listed the "standards" for each NCOD (pursuant to Section 10-201 I) that must be applied to site plan, subdivision and rezoning analysis. These NCOD standards were pulled directly from each of the adopted Neighborhood Plans.

Most NCODs include straightforward standards regarding the built environmental characteristics such as minimum lot size, minimum lot width, setback lines, distance between buildings and maximum building height. A few NCODs, such as North Boylan and South Park, have standards for the vehicular surface area. The South Park NCOD has standards for the location of the building entrance.

Brookhaven, Mordecai, Five Points and Cameron Park are the only NCODs that created special areas. Mordecai and Brookhaven, have two Conservation Districts as part of the NCOD. Five Points and Cameron Park have "Core Areas" and "Transition Areas" as part of the NCOD.

While the NCOD standards in the Neighborhood Plans are objective and therefore easy to apply by the general public or city staff; the goals, objectives, policies and actions items in the Neighborhood Plans are not as easy to apply. These statements are written in the same vernacular as other neighborhood and small area plans that do not have NCODs associated with them. The Inspections Department as well as the Planning Department has been challenged by the zoning applicability of the policies in the NCODs and PBODs.

Implications of this option⁷

1. **NCOD process would be expedited.** Replacing the neighborhood plan requirement with the zoning standards would allow the Planning Department to expedite the creation of an NCOD

⁷ The Department of City Planning would undertake an impact analysis to fully explore the potential adverse impacts of this action.

from 14 to 18 months to 4 or 6 months depending on the complexity and size of the area. The Department of City Planning would assign a planner to work solely on the new or existing NCODs.

2. **Stronger predictability.** NCOD standards would become part of the code. NCOD would be easier to find.
3. **New rules would only be enacted in specific neighborhoods.** The concern for infill and residential redevelopment would be localized to the area that is impacted as opposed to citywide standards.
4. **Property owners would have a voice in the process.** The code would continue to require that a majority of the property owners agree to the rezoning request to create an NCOD, unless the City is the applicant.
5. **Migrating existing Neighborhood Plans with NCODs to the new format may be time consuming.** Existing NCODs would have to be codified under Section 10-2065. There may be a concern that the community may lose something when the existing Neighborhood Plan's and NCOD regulations migrate to the zoning code.
6. **This proposed action would require a text change.** The next scheduled public hearing is January 22. The Council may schedule a special hearing after proper legal public notice.

Issues for further research and discussion

1. Over time, the Department of City Planning would have to work with each neighborhood group that has a Neighborhood Plan/NCOD to transition the existing document into the new format. The neighborhood residents could have some apprehension about changing what is currently on the books.
2. All future NCODs would require a text change, a rezoning and a comprehensive plan amendment (if the property owners want a neighborhood plan). These actions could be handled simultaneously and at the same public hearing.
3. If City Council agrees with this option, a similar effort may need to be undertaken with the Pedestrian Business Overlay Districts.
4. The Planning Department estimates the process could be reduced to 4 to 6 months. This is an estimate. There are unknown factors the Planning Department could not account for. These factors include not knowing how long it would take for the neighborhood group to collect signatures for the rezoning petition or how long it will take for the property owners to agree on the boundary and standards. However, the new process would no longer require a neighborhood plan (time savings 6 months) and the text change and rezoning petition could run concurrently (time savings 4 to 6 months).